



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

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March 3, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", with a long horizontal line extending to the right.

STATUS REPORT ON ISSUES RELATED TO SOUTHERN CALIFORNIA EDISON FRANCHISE

On November 12, 2008, the Board of Supervisors approved an extension of the franchise held by the Southern California Edison Company (Edison) for electrical distribution through December 31, 2009. At the same time, the Board adopted a motion directing the Chief Executive Office (CEO), Auditor-Controller (Auditor), Department of Public Works (DPW), and County Counsel to establish a working group to provide the Board with comments and timely review of issues important to the County not covered under the existing franchise agreement.

The motion directed the CEO to provide status reports every 90 days on issues including annual reports and audits, graffiti removal, pole replacement credits, access to poles for placement of banners, Christmas lights, decorative baskets, law enforcement cameras, and undergrounding of power lines to mitigate fire hazards.

AUDITS AND REPORTS

Since the annual franchise fees and surcharges Edison pays to the County had never been audited throughout the 50-year term of the franchise, an "audit team" from CEO, Auditor and County Counsel had previously engaged Mayer Hoffman McCann PC (MHM) to perform an audit of Edison's annual payments for a five-year period (2001-2005).

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Following the release of the draft audit report for review by Edison in May 2008, the audit team held two "exit conferences" to allow Edison to address the findings of the audit. A revised draft audit report was released to Edison in June 2008, and at the last meeting in November 2008, Edison's representatives were advised to provide any new information, viewpoints or comments in writing on or before January 9, 2009.

Edison was also provided the ability to discuss the audit findings by teleconference in December 2008, and MHM and Auditor had targeted late February 2009 for release of the final audit report to your Board and Edison. However, by letter in January 2009, Edison requested the County to consider an offer of settlement, the terms and conditions of which would remain confidential. The CEO and Auditor are currently evaluating the offer, which may need to be discussed with your Board in closed session.

With regard to annual reports, updated regulations for more detailed reporting of gross annual receipts and timely audits of annual franchise payments from Edison and other franchisees are scheduled to be recommended for your Board's approval in the revisions to the County franchise codes and will be incorporated into the renewal of the Edison franchise. Upon approval, these provisions will require an audit of Edison's annual franchise fees and surcharges every five years.

CODE REVISIONS

The requirements for granting and administering franchises contained in the County's Highway Code have not been updated in over 30 years (Ord. No. 11,696, 1978). Accordingly, CEO and County Counsel recognized the importance of revising these County franchise codes prior to granting any long-term renewal of the Edison franchise.

Although an initial effort to update these County codes by outside legal counsel proved ineffective, CEO undertook researching the procedures and regulations established by municipalities to manage and regulate franchises throughout California and the nation. In August 2008, CEO finalized a draft ordinance to amend the franchise codes (Title 16, Divisions 3 and 3A), for review by County Counsel.

County Counsel is working with CEO to refine these draft code revisions. County Counsel may engage new outside legal counsel with expertise in municipal franchise and highway codes in the near future to provide focused comments for County Counsel's consideration. After this process has been completed, the CEO will distribute the draft code revisions to affected County departments and utility industry companies (electric, gas, water, and petroleum) for their input.

GRAFFITI REMOVAL

We recommend that the most effective method of combating graffiti is to introduce a graffiti-removal requirement in the County Highway Code. Upon your Board's approval, a new code will require any person or franchisee that maintains an above-ground facility in a County dedicated highway right of way to remove any graffiti placed upon their facilities within 48 hours after receipt of written notice from DPW.

This code, if approved, will provide that in the event the graffiti is not removed, the County may remove the graffiti, or cause it to be removed, and the person, franchisee or other company shall reimburse the County for all costs of the removal, plus the current costs of overhead being charged for such reimbursable expenses.

While this code enforcement method could be effective in removing graffiti quickly and reimbursing the County for its costs, CEO and DPW have identified questions relating to the definition of graffiti and whether it is reasonable to charge utility companies for removal of everything placed upon their above ground facilities, such as notices or other material relating, for example, to political messages, charity events, yard sales, missing persons and/or pets. In addition, a single point of decision making about what is to be removed will need to be established, and given the magnitude of incidents requiring a response by the County's abatement staff (102,000 locations last year), DPW has expressed concerns whether documenting each incident would be operationally feasible, whether or not the County receives reimbursement.

In recent meetings with Edison, CEO and DPW were provided a list of several established "zero-tolerance" zones and a "Local Government Hotline" facsimile number and email address that will allow the County to report graffiti immediately and quickly schedule abatement by Edison's graffiti removal contactor.

POLE REMOVAL AND POLE CREDITS

This issue pertains to the costs incurred by the County whenever the County requests Edison to remove a utility pole, and the credits the County should receive whenever Edison removes a utility pole that still has economic life and reuses that pole.

Although CEO has addressed many of these issues in the proposed revisions to the County Codes, as directed by your Board, CEO and DPW have identified certain cost-related issues that need to be reviewed and considered. A County working plan needs to be developed and negotiated with Edison regarding the proposed division of costs and associated expenses incurred to relocate any existing pole facilities as a result of the County requesting a pole removal.

STREET LIGHTING ATTACHMENTS

Banners and Christmas Lighting

The CEO and DPW working group has met internally and with Edison to discuss certain issues relating to the attachment of banners, Christmas lights and other attachments to Edison's street lighting poles.

Based upon an existing license agreement with Edison, the County already has the conditional right to attach "Edison-approved" American flags, non-electrified traffic regulating devices, banners and appurtenances to Edison's street lighting poles, and the County is approved to attach Christmas lights to Edison's poles under the rules and tariffs approved by the California Public Utilities Commission (CPUC).

Additionally, under the terms and conditions of a license template that Edison has approved, DPW can issue licenses to its "contract cities" for the rights required to attach the same items approved in the County's license, with the approved banners being restricted to pennants under a specified surface area (measuring 18 square feet). Edison feels that any banner exceeding 18 square feet has the potential to create a safety hazard due to the additional forces on the pole created by wind velocity on the larger surface.

As directed, CEO and DPW have identified issues for your Board to consider, including the source of funding for the costs of installing, dismantling and storing Christmas lights and/or banners, involvement and acceptance by the local community, approval and control of the banner messages, and the related indemnity and liability.

Edison has stated in writing that attachments would not be unreasonably denied if they comply with: (1) CPUC General Order 95 (GO-95), which contains the CPUC's rules for Overhead Electrical Line Construction; and (2) Edison's Tariff Schedule LS-1, which contains the rules and rates for Edison to install the required number of "Timed Auxiliary Power Device Adaptors" (TAP devices), that verify the energy used by Christmas lights and enter the costs into an account.

Effective in August 2006, the CPUC allows Edison to charge a fee to install each TAP device (\$21.86 each), a one-time account setup charge (\$65.00), and energy usage based upon the LS-1 Tariff Schedule "Midnight Service" rate. Other charges may apply, including costs exceeding normal maintenance and standard installation costs, liability for loss, damage or injury, which all present questions regarding the source of funding for your Board to consider.

It is important to note that DPW does not typically budget for Christmas lighting, and funding would therefore need to be identified for each installation.

Given the potential liability the County could incur, DPW would not recommend the attachments to Edison's street lighting poles that do not comply with Edison's "engineering loads" for weight or wind turbulence, or attachments, such as banners, to any poles, regardless of ownership, that cross a highway laterally. Such lateral banner crossings pose a distraction to the flow of traffic and create liability for accidents, damages or injuries should they dislodge and become airborne.

Other Attachments

As directed by your Board, CEO and DPW met with Edison regarding attachments to Edison's street lighting poles, including decorative baskets and law enforcement cameras. To date, Edison has not granted the County permission to attach any apparatus not already allowed by the County's existing banner license.

Although the 1951 "Overhead Intersection Lighting Agreement" that your Board established with Edison for the operation and maintenance of street lighting poles has been amended over time (1963 and 2001), ultimately, no such provisions were incorporated into this agreement that would allow the County to attach decorative baskets or law enforcement cameras.

Law Enforcement Cameras

Although to date, Edison has not approved the attachment of law enforcement cameras to their poles, Edison representatives recently related that they are currently working with the Sheriff's Department on a pilot program to allow such cameras on a limited trial basis.

Issues identified for your Board to consider include the funding source for any ongoing maintenance and repair costs, privacy of County constituents, the cost of liability from potential damages and claims, and the security and safety of those individuals delegated to service cameras and appurtenances.

As information, a camera attached to a street lighting pole is difficult to hide from view and either special cameras or precautions will be required to avoid detection and damage. As standard protocol, Edison will have to approve the specifications, weight and size of the surveillance equipment.

UNDERGROUNDING OF ELECTRICAL LINES

As directed, CEO and DPW have investigated and conducted research, held meetings with Edison, and identified issues of importance for your Board regarding the undergrounding of electrical lines. CPUC Rule 20 contains the policies and procedures for conversion of overhead power lines to underground facilities, and for determining the level of ratepayer funding for a project. Funds are allocated to communities based upon previous allocations, a ratio of customers served by overhead facilities to all customers in a community, and a ratio of customers in a community to all Edison customers.

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Briefly, Rule 20 sets the criteria under which a project can qualify, such as locations that are heavily traveled, have a heavy concentration of overhead facilities, involve an arterial or major collector road, or where overhead lines are within a civic, recreational or scenic area. Depending on the provisions that apply, projects are financed either by utility rate money combined with local tax proceeds, or private funds. Rule 20A projects are funded 100 percent by ratepayers, Rule 20B projects are funded approximately 20 percent by ratepayers and 80 percent by local governments (or assessment districts), and Rule 20C projects are funded 100 percent by the property owners.

In closing, the CEO, as directed in the November 2008 Board motion, will continue to keep your Board apprised of the progress of the County's working-group relative to the various issues described herein.

If you have any questions or need additional information, you may contact me or your staff may contact William L. Dawson, Acting Director of Real Estate at (213) 974-3078 or wdawson@ceo.lacounty.gov.

WTF:DL:JSE
WLD:CMM:RB:lis

c: Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller
Department of Public Works

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